



DEPARTMENT OF THE ARMY
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OFFICE OF THE STAFF JUDGE ADVOCATE
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ATZP-JA

28 March 2019

MEMORANDUM FOR ALL

SUBJECT: Gifts/Honorarium to Speakers

1. PURPOSE: To state the rules regarding the acceptance or provision of gifts and/or honorarium

2. REFERENCES:

- a. DoD 5500.7-R, 17 November 2011, the Joint Ethics Regulation (JER)
- b. DoD 7000.14-R, July 2017, Financial Management Regulation, Volume 10, Chapter 12
- c. 5 CFR 2635, 1 January 2018, Standards of Ethical Conduct for Employees of the Executive Branch,
- d. 5 CFR 2636, 1 January 2018, Limitations On Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees.
- e. Army Regulation 1-50, 2 July 2018, Army Conference Policy

3. Discussion:

a. Receiving and Accepting Honoraria and Other Gifts

(1) Receiving Honoraria from Appropriated Funds or Non-Government Sources: Honoraria, such as a speaking fee, constitutes outside earned income (compensation). 5 CFR 2636.303(b). Unless expressly authorized by law, an employee of the Executive Branch may not receive additional compensation, including from a *non-government source*, for the performance of their *official duties*. DoD 5500.7-R, 5-405. See also 5 CFR 2635.807(a).

(a) The above notwithstanding, federal employees are not expressly prohibited from receiving outside compensation, including honoraria, for the performance of *non-official duties*.

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(b) To ensure compliance with regulations and policies pertaining to outside employment, federal employees are encouraged to seek an ethics opinion from OSJA before performing at speaking events or other similar engagements.

(2) Gifts from Prohibited Sources: Employees of the Executive Branch are generally prohibited from accepting gifts from “prohibited sources”, as defined at 5 CFR 2635.203, as well as those offered because of the employee’s official position. 5 CFR 2635.202(a)(2).

(a) The above notwithstanding, an employee *may* accept meals or other “incidents of attendance” to a teaching or speaking event, such as a waiver of attendance fees. 5 CFR 2635.807(a)(2)(iii)(B). An employee may also accept *unsolicited* gifts with an *aggregate* market value of up to \$20 per *source per occasion*, provided the *aggregate* market value of all gifts received from a source does not exceed \$50 in a calendar year. 5 CFR 2635.204.

(b) In addition, certain items with little intrinsic value, such as greeting cards, plaques, or certificates, do not constitute “gifts.” 5 CFR 2635.203(b)(2).

b. Limitations on the Army When Providing Honoraria

(1) Payment for expenses associated with providing honoraria is permitted for individuals who are not government personnel. DoD 7000.14-R, Volume 10, Chap. 12, 1208. Honoraria are *ex gratia* (voluntary) payments and may be made to a speaker who has *discretion concerning the content of the speech, presentation, or panel discussion on the general topic*. *Id.* Generally, payment for expenses associated with honoraria is limited to \$2,000 per speaker. AR 1-50, para. 6-5. See *also* DoD 7000.14-R, Volume 10, Chap. 12, 1208.

(2) As noted above, providing honoraria is a *voluntary* action. Payment for honoraria related expenses up to \$2,000 is merely *permissible*; organizations *are not obligated* to pay this amount for every individual. The value of honoraria provided to each individual should be reasonable and based upon the circumstances surrounding the specific event and speaker.

(3) The above restrictions on honoraria *do not* apply to *all* guest speakers. For example, honoraria limitations do not apply to the compensation of a speaker who presents materials under a training contract involving a program of instruction. *Id.*

4. Point of contact is the undersigned at (831) 242-6414.

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